PR

UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/425,088 | 10/22/1999 | HIMANSHU S. SINHA | 99-829 | 9057 |

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| EXAMINER |
|---|
| BLAIR, DOUGLAS B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2142 | 9 |

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

| Advisory Action | Application No. | Applicant(s) |
|---|---|---|
| | 09/425,088 | SINHA, HIMANSHU S. |
| | **Examiner** | **Art Unit** |
| | Douglas B Blair | 2142 |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 16 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attachment*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-5 and 7-17*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s). _____.

10. ☐ Other: _____.

### *Response to Arguments*

Applicant's arguments filed 5/16/2003 have been fully considered but they are not persuasive. The applicant argues the following points: (a) The previously cited portion of Schuster does not disclose modifying an estimated capacity of the service provider based on the measured performance; (b) Knight and Aronberg are clearly directed to different environments and it would not have been obvious to combine features from these disparate environments without the benefit of the applicant's disclosure; (c) The previously cited portion of Aronberg does not disclose determining whether to accept a request based on the number of tokens associated with a client process, therefore the claimed invention would not result in from the Knight-Aronberg combination; (d) Knight does not disclose deducting a number of sessions from the client process if the request is accepted; and (e) Aronberg does not disclose deducting a number of tokens from the first client process when a request from the first client process is accepted.

As to point (a), the estimated compliance time is a measure of the capacity of the network over time. This estimate is made based on performance measurements taken during network monitoring. (As described in the previously cited sections of the Schuster reference as well as col. 12, lines 26-53).

As to point (b), the Knight and Aronberg teachings may be implemented in different environments; however they both solve the same problem of limiting the access of certain entities to resources to a finite number. Therefore in the context of solving such a problem the Knight-Aronberg combination would be obvious. Someone of ordinary skill might want to use a

token server rather than a counter for performance reasons (as discussed by Aronberg in col. 2,

lines 3-22).

As to point (c), the previously cited portion of Aronberg discloses the distribution from

the token server of a finite number of tokens and only accepting requests from agents with tokens

therefore when the server accepts requests it is checking that one token is associated with the

client process (Aronberg col. 4, lines 56-67 and col. 5, lines 1-30).

As to point (d), Knight discloses updating a counter after the session has been accepted

thereby decrementing the number of available sessions (col. 25, lines 16-38).

As to point (e), in the previously cited teachings of Aronberg a token given to an agent is

deducted from those tokens which are available.

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